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India: Role and importance of a *sarpanch*; information on how this position is filled and what kind of authority a sarpanch has in relation to the law, including his or her relationship with police; information on how easily a sarpanch can be contacted from outside the country; whether the police consult a sarpanch before arrests are made or any other major action is taken within the sarpanch's community; whether a sarpanch can issue documents and his or her role in doing so

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Definition and role of a sarpanch

The following information was provided by a professor of Anthropology at the University of Texas with extensive knowledge of India in a 27 March 2008 telephone interview with the Research Directorate. A *sarpanch* is the head of a *panchayat*. A panchayat is comparable to the "local government council" of a village or a rural community of about 1,000 people or more. Even though panchayats can be compared to local government councils, they do not have the same powers. Panchayats do not have the authority to enter into or award contracts. They cannot collect taxes beyond a very minor "local fee" and they cannot maintain a police force, courts, or the like. Sarpanches are elected directly within their respective panchayat.

A professor at the Institute of Commonwealth Studies of the University of London, who has written on governance in rural India, provided a similar definition of a sarpanch in correspondence to the Research Directorate:

A sarpanch is the chairperson of an elected council at village or at low-intermediate levels (district and sub-district) levels in India. Most are men, but some are women. The sarpanch chairs the council, but in many cases, s/he also wields considerable informal power over - and in some places even dominates - public affairs within the arena covered by the council. Since 1993, these posts have all been filled by indirect election by the members of low-level councils who are themselves directly elected by voters, in (almost always) free and fair elections, every five years. (3 Apr. 2008)

Provisions relating to panchayats were added to the Constitution through enactment of the *Constitution (73rd Amendment) Act, 1992* in 1993 (India n.d.a; see also *Frontline* 19 July-1 Aug. 2003). The Constitution defines a panchayat as "an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas" (India 26 Nov. 1949, Art. 243(d)) and stipulates that every state must have panchayats "at the village, intermediate and district levels..." (ibid., Art. 243B). The Constitution also empowers states to regulate and oversee panchayats (ibid., Art. 243B, 243C) and since this amendment to the Constitution, the states have enacted legislation relating to panchayats (ibid. n.d.a). According to the Ministry of Panchayati Raj, which was created in May 2004 to assist panchayats and ensure that the provisions on panchayats of the Constitution are implemented by the states (India n.d.b), there are a total of 551 district panchayats, 6,169 block panchayats and 241,565 village panchayats in India (India n.d.c). An article in *The Telegraph*, a Kolkata-based newspaper, provides the following distinction between caste panchayats and gram panchayats:

[t]he caste panchayat is different from the *gram* panchayat, which is an elected body, headed by the sarpanch. The former draws its legitimacy from its claim of being self-appointed keeper of tradition, customs and cultural practices, while the latter is a representative of the law of the land. (6 Feb. 2007)

The sarpanch's relation to the law and police

The professor of Anthropology explained that panchayats are involved in local politics and that they are a means to resolve conflicts between people (27 Mar. 2008). He added that a panchayat can act as a judicial body in matters where the amount of money involved is small and a panchayat may serve as a court of first instance if they find the amount beyond their jurisdiction; for larger sums of money, the conflict would be resolved before a court of justice (Professor 27 Mar. 2008). In cases where the panchayat would decide on a case to resolve a conflict, the sarpanch would chair the hearing, but the decision would be made by taking a vote of the panchayat representatives attending; although, the professor noted that this procedure may vary by state (Professor 27 Mar. 2008). As an example of the panchayat acting as a judicial body, one media article reports that one female sarpanch in Minapur was praised by the United Nations Development Programme (UNDP) "for delivering instant and

correct justice" (*Hindustan Times* 7 Mar. 2008). Sarpanches will often also be called as witnesses before courts (Professor 27 Mar. 2008). They and the other members of the panchayats are considered legal "official witnesses" (*ibid.*). They are especially important in testifying to the identity of parties to a dispute, since India does not provide a national system of legal identities of record (*ibid.*). Because of this, people in legal disputes will often try to get their sarpanch to act as a witness on their behalf (*ibid.*).

With regard to a sarpanch's relation to the law and police, the Professor from the University of London stated that:

In theory, and to some extent in practice, the sarpanch works cooperatively with the police to promote law and order and the rule of law. But the maintenance of law and order within any Indian district is mainly the responsibility of a district-level bureaucrat who is appointed from above, and who works in close cooperation with the police. If, however, a sarpanch has acquired considerable informal power and influence, then s/he may in practice strongly influence the behaviour of the police. The reality in this matter varies greatly from place to place. In some areas, the police would consult the sarpanch before making an arrest or doing anything else, but the law does not require that they do so. In other areas, the police would act without consulting the sarpanch. (3 Apr. 2008)

The Professor of Anthropology stated that the police would not be required to notify the sarpanch before making an arrest or taking any other important action within the panchayat, but would usually do so (Professor 27 Mar. 2008). Conversely, however, sarpanches are required to notify the police if they find evidence of certain crimes in their area of jurisdiction, such as murder (*ibid.*). According to the Professor, sarpanches do not have any power to make arrests but, in cases where police have an arrest warrant for an individual, they would probably have the sarpanch accompany them to the wanted individual's house to make the arrest (*ibid.*). When asked why the sarpanch would accompany the police to make an arrest, the Professor explained that it was first of all to affirm the identity of the person being sought (*ibid.*). It is also a way to make the arrest publicly known in the panchayat and this procedure is followed out of respect for the village or panchayat (*ibid.*).

The role of a sarpanch in issuing documents

Sarpanches can issue documents in their capacity as official witnesses and these documents have official recognition by courts (Professor 27 Mar. 2008). However, the Professor elaborated that even though these documents are officially recognized by the courts, "[the courts] don't necessarily have to believe [the letters] but they have some authority" (Professor 27 Mar. 2008). When asked whether a sarpanch can issue documents, the Professor from the University of London indicated that this could vary from state to state (3 Apr. 2008). In a state where a sarpanch is empowered to issue documents, "then the police and the courts would normally take these documents quite seriously" (Professor 3 Apr. 2008). However, the Professor from the University of London added that

the police and the lower courts in India are often quite corrupt, so their actions often do not conform to convention or the law. If they harboured an animus against a sarpanch, or if (as is sometimes the case) a sarpanch is a woman or from a low-status caste, the police and courts might behave in a prejudiced way towards them. (*ibid.*, emphasis in original)

Accessibility of a sarpanch

Regarding the accessibility of sarpanches, an article in *The Tribune* states that a cell phone company is issuing special promotions of cell phone services to village sarpanches in Punjab (16 May 2003). Digital Empowerment Foundation (DEF), a Delhi-based non-profit organization promoting information communication and technology (DEF n.d.a), provided a workshop in February 2008 to 50 panchayats in Maharashtra to help them develop a website for their panchayat and to promote the idea of digital panchayats (*ibid.* n.d.b). In its mid-term appraisal on the state of panchayats for 2006-2007, the Ministry of Panchayati Raj reports that the states of Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Karnataka, Orissa, Rajasthan and West Bengal have started projects to offer information technology solutions to their panchayats so as to enable them to operate in an electronic environment (India 2006-2007, 117-118).

When asked how easily a sarpanch can be contacted from outside India, the Professor from the University of London indicated that this varies from one case to another (3 Apr. 2008). The Professor further explained that a sarpanch in a remote, under-developed area without access to a telephone could be difficult to contact while a prosperous sarpanch with a mobile telephone could be instantly available from overseas (3 Apr. 2008). The Professor of Anthropology indicated that he was not certain about the availability of sarpanches through cell phones but that usually one could "very easily" reach a sarpanch by mail and in some locations sarpanches can be reached by e-mail (14 Apr. 2008).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

Digital Empowerment Foundation (DEF). N.d.a. "About Us." <http://www.defindia.net/other_full_story.asp?id=21> [Accessed 27 Mar. 2008]

_____. N.d.b. "DEF Launches 'Towards Digital Panchayat'." <<http://www.defindia.net/printVer.asp?story=421>> [Accessed 19 Mar. 2008]

Frontline [Chennai]. 19 July - 1 August 2003. Prabhat Datta. Vol. 20, Issue 15. <<http://www.frontlineonnet.com/fl2015/stories/20030801001508200.htm>> [Accessed 19 Mar. 2008]

Hindustan Times. 7 March 2008. Khwaja Jamal. "Woman Honoured for Giving Instant Justice." <<http://www.hindustantimes.com/ListingPage/ListingPage.aspx?Category=Bihar&SectionName=IndiaSectionPage&Photo=India&BC=Bihar>> [Accessed 27 Mar. 2008]

India. 2006-2007. Ministry of Panchayati Raj. "State of the Panchayats." <<http://panchayat.gov.in/viewPortalPage.do?PPID=200>> [Accessed 28 Mar. 2008]

_____. 26 November 1949 (Amended 2003). *The Constitution of India*. <[http://lawmin.nic.in/legislative/Art243-395%20\(89-184pp\).doc](http://lawmin.nic.in/legislative/Art243-395%20(89-184pp).doc)> [Accessed 26 Mar. 2008]

_____. N.d.a. Ministry of Panchayati Raj. "Introduction Regarding National Convention of Presidents of District and Inter-mediate Panchayats Scheduled in Delhi on 22-24 April, 2008 to Commemorate the Coming into Force of the Constitution (73rd Amendment), Act, 1992." <<http://panchayat.gov.in/data/File/introduction%20reg%20national%20convention.pdf>> [Accessed 28 Mar. 2008]

_____. N.d.b. Ministry of Panchayati Raj. "Our Mandate." <<http://panchayat.gov.in/viewContentItem.do?View=viewItem&itemid=3021&ptltid=320>> [Accessed 28 Mar. 2008]

_____. N.d.c. Ministry of Panchayati Raj. "National Panchayat Directory." <<http://offerings.nic.in/directory/PDFace.asp>> [28 Mar. 2008]

Professor, Institute of Commonwealth Studies, University of London. 3 April 2008. Correspondence sent to the Research Directorate.

Professor of Anthropology, University of Texas. 14 April 2008. Correspondence.

_____. 5 April 2008. Correspondence.

_____. 27 March 2008. Telephone interview.

The Tribune [Chandigarh]. 16 May 2003. "AirTel Scheme for Villages." <<http://www.tribuneindia.com/2003/20030516/biz.htm>> [Accessed 26 Mar. 2008]

The Telegraph [Kolkata]. 6 February 2007. Uddalak Mukherjee. "Getting Away with Murder." <http://www.telegraphindia.com/1070206/asp/opinion/story_7345603.asp> [Accessed 19 Mar. 2008]

Additional Sources Consulted

Oral sources: Two academics at the Centre for South Asian Studies of the University of Toronto and two representatives of the Ministry of Rural Development of India did not provide information within the time constraints of this Response.

Internet sites, including: Amnesty International (AI), Freedom House, *The Hindu* [Chennai], Human Rights Watch (HRW), *The Indian Express* [Mumbai], Information Center on Local Governance in India, Integrated Regional Information Networks (IRIN), Ministry of Rural Development, *Mumbai Mirror*, National Human Rights Commission (NHRC), Office of the United Nations High Commissioner for Human Rights (OHCHR), Office of the United Nations High Commissioner for Refugees (UNHCR), *The Times of India* [Haryana], United States Department of State.

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